



20 December2010

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Mr. Michael Berkoff
EPA Remedial Project Manager
77 W. Jackson Boulevard SR-6j
Chicago, IL 60604

Dear Michael:

Attached are comments concerning the region 5 presentation of remediation alternatives to the National Remedy Review Board. The comments have been approved by the Watershed Council board of directors.

We very much appreciate this opportunity for comment and look forward to selection of a remedy for Operable Unit 1 that satisfies the greatest public benefit.

The Kalamazoo River Watershed Council is a public, non-profit 501(c)3 organization whose purpose is to work collaboratively with the community, government agencies, local officials and businesses to improve and protect the health of the Kalamazoo River, its tributaries, and its watershed.

Sincerely,

/s/ Robert Whitesides

On behalf of the Board of Directors
Kalamazoo River Watershed
Council
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**National Remedy Review Board
United States Environmental Protection Agency**

The Kalamazoo River Watershed Council (KRWC) is the primary citizens' advisory group for the Allied Paper/ Portage Creek/ Kalamazoo River Superfund Site. KRWC and predecessor organizations have been fully involved with the site and the protracted remediation process even prior to the NPL listing in 1990, and KRWC has been the recipient of EPA TAG grants for the site.

KRWC greatly appreciates the opportunity to provide comments on the remedy recommendation by Region 5 to NNRB. We note with pleasure that opening up NNRB deliberations is an element in the Integrated Cleanup Initiative Action 7A – Streamline, as appropriate, National Remedy Review Board: "Evaluate opportunities for increased community, state, and tribal input for use by Board members during internal EPA deliberations."

KRWC has been consistently involved with development of remedy alternatives, and we were instrumental in the decisions which led to the Time Critical Removal Action (TCRA) of Bryant Millpond in 1999. This action was, however, not followed by immediate completion of the Remedial Investigation and Feasibility Study as contemplated in the Emergency Response Administrative Order of Consent, V-W-'98-C-473. Since that event the Bryant Millpond sediments, which were transferred to other portions of the Allied Site, have been capped with what is now known to be only a temporary cap, and that cap has been observed to be deteriorating. The underlying waste dumps have continued to release small amounts of contaminated sediments into Portage Creek, and unknown amounts of other contaminants into Portage Creek or the surrounding environment.

Since the TCRA, the Responsible Party, Millennium Holdings, has been liquidated in the LyondellBasel bankruptcy and the property is now in trust. The Responsible Party's consulting engineer, ARCADIS, is no longer involved in development of remedy alternatives for Operable Unit 1 (OU-1).

KRWC has consistently supported those remedy alternatives which completely remove all hazardous wastes from the local environment and isolate them in dedicated TSCA qualified facilities. In accordance with this principal, KRWC supports Remedy alternative 3 – Offsite Disposal as its primary choice. We recognize that this alternative involves much higher expenditure than any other, but we believe the benefits to be significant: absolute protection of the City of Kalamazoo's drinking water well field to the north of the site; elimination of administrative controls which reduce the future use of the site; elimination of all monitoring and engineered ameliorative reactions to potential groundwater flows, which would be required in perpetuity.

We seek a "walk away" remedy, not continuing requirements and restrictions on use. The site is an important element in the conversion of old water course exploited for industrial use to commercial and recreational uses that are integrated with the surrounding residential area. We are particularly sensitive to the requirements "in perpetuity". We have seen the PRP vanish, leaving not only OU-1, but most of the site overall bereft of financial commitment. It is feared that the OU-1 will revert to the City of Kalamazoo shortly after completion of remediation, and be an unnecessary burden "in perpetuity" if the full removal alternative is not taken. Continuing operations and maintenance costs for a site which is unusable for any purpose are an unacceptable, unsustainable burden.

We do not know the details of cost estimates prepared by Region 5 and its consultants, but wish to note that an important consideration in the total removal alternative is the use of rail transportation from the site to appropriate TSCA qualified facilities. As a previous spur has been demolished, construction of a rail spur on existing roadbed would be required for most efficient handling and loading of railcars. We note that rail is the preferred mode of transportation on the Hudson River Superfund project. Rail would also ameliorate or eliminate the potential for public nuisance and damage in the surrounding neighborhoods during the construction period. The construction period nuisance concern related to truck traffic was emphasized by the previous consultant, ARCADIS, to discourage the total removal option. The rail option was not examined to any great degree.

In support of total removal we cite the data concerning human health effects of PCB wastes, even in the context of what we assume are properly constructed landfills, as opposed to the uncontrolled waste dumps that currently exist on OU-1. These concerns are based on the conclusions published in the following papers:

Maria Kouznetsova, Xiaoyu Huang, Jing Ma, Lawrence Lessner, and David O. Carpenter. 2007 Increased Rate of Hospitalization for Diabetes and Residential Proximity of Hazardous Waste Sites". *Environ Health Perspect* • 115:75-79

Alexander V. Sergeev and David O. Carpenter. 2005 Hospitalization Rates for Coronary Heart Disease in Relation to Residence Near Areas Contaminated with Persistent Organic Pollutants and Other Pollutants. *Environ Health Perspect* 113:756-761

Paul W. Stewart, Edward Lonky, Jacqueline Reihman, James Pagano, Brooks B. Gump, and Thomas Darvill. 2008 The Relationship between Prenatal PCB Exposure and Intelligence (IQ) in 9-Year-Old Children. *Environ Health Perspect* 116:1416-1422

Copies of these papers are attached with the print version of this document, and forwarded under separate cover with the electronic version.

Research describing the casual relationships of PCB exposure and developmental neurological damage was published in a series of papers as described in *ScienceDaily*:

University of California - Davis - Health System (2009, April 14). How PCBs May Alter In Utero, Neonatal Brain Development. *ScienceDaily*. Retrieved December 15, 2010, from <http://www.sciencedaily.com/releases/2009/04/090413204546.htm>

Copies of two of the three papers are attached in the print version of this document, and forwarded under separate cover with the electronic version.

The research described in these papers occurred subsequent to the completion of the Allied Paper / Portage Creek / Kalamazoo River Human Health Risk Assessment (HHRA) in 2002. We note the similar concerns about new understandings of exposure pathways expressed in the EPA Integrated Cleanup Initiative document recently released for public review and comment. Action 2B – Explore opportunities to revise the Hazard Ranking System (HRS) and related policies includes the following: "The HRS is the process used to determine whether a site warrants consideration for potential inclusion on the NPL. **With greater awareness of new exposure pathways and other emerging issues, EPA will explore whether potential revision of HRS may be warranted** (emphasis added)". Action 2B goes on to state in a bullet item: "Seek stakeholder input and determine whether new policy / guidance could address some of the emerging issues of concern, e. g. sensitive populations and soil benchmark for lead." We believe that the evidence in good peer reviewed science is overwhelming for new guidance related to exposure to PCB, above and beyond what has become the almost solitary exposure pathway: fish consumption. We do not concur with the statement "As the HRS is a rule, any revision would be subject to full notice and comment and therefore may take a significant amount of time." We fully concur with the statement which follows: "EPA may also explore options to address these concerns through other means if appropriate and available." Other means include NRRB directives to Region 5, and full removal is certainly warranted on many different grounds. The removal of the PRP through bankruptcy places responsibility directly with EPA, with no potential intervening challenges, legal or otherwise.

We realize that given the range of alternatives, we should indicate our rank order preference as part of the larger decision process. We therefore, reluctantly, support Alternative 4 - Full Encapsulation as a second choice. We cannot, however, support either of the options included under Alternative 2 – Consolidation as this alternative in all forms does not adequately control waste on the site. We could add our concerns and suggestions for modifications of the details of the options under Alternative 2, to the degree details are discussed in the proposal, but to no satisfactory end. The community still ends up with uncontrolled waste-in-place for perpetuity.

We would note that Alternative 4 in its current form does not completely reflect the original concept as proposed by KRW. The concept stemmed from the ill begotten proposal to dispose of additional waste sediment on OU-1 from the Plainwell TCRA. Proposals included in that plan showed unlined "cells" to be

constructed in the Western Disposal Area to accommodate the added dredge spoil from Plainwell. With the realization that OU-1 could possibly not accommodate all the waste in TCSA qualified encapsulation, and that construction would require additional space, the concept proposed the integration of OU-1 with the Brownfield Panelyte Property to the north, which bifurcates OU-1, and is largely contaminated with non-PCB wastes. The property is currently owned by the State of Michigan Land Bank and is expected to be transferred to the City of Kalamazoo in the near future, to be integrated into the Portage Creek Corridor Redevelopment Plan, a key element in revitalizing this old industrial area. Prior to the departure of the PRP and the passing of the OU-1 property deed to the Environmental Trustee, it was unlikely that a reasonable coordinated approach was possible. Refusing to consider the integrative approach, the PRP's consultant developed estimates with what we suspect to be inflated costs for excess soil removal due to limits on space and constraints on temporary storage on site. The integrative approach should now be possible.

Integration of OU-1 and the Panelyte Property offers significant cost reduction by expanding the area for lined cell construction and removes the constraints on storing excavated material during construction. Integration also provides for immediate exchange of lightly contaminated or non-contaminated area along Alcott Street on the north side of OU-1 for redevelopment, including removal of the Bryant Millpond Dam, which was precluded by the PRP prior to the bankruptcy.

The long term monitoring and Contingency Options for Alternative 2 – Consolidation and Alternative 4 – Full Encapsulation are admissions that none of the waste-in-place remedies can provide the assurance to the community that future gross spread of contamination, and ongoing minor releases of contamination, are unlikely. This is the latest in a long history of avoidance of the Precautionary Principle in dealing with PCBs: first, in allowing them to be marketed without prior understanding of their deleterious effects, a process which continues unabated for new chemical compounds; second, in not requiring the users / processors of PCB-containing materials to make adequate financial provisions for proper disposal of PCBs; and third, in not demanding that only a remedy which removes the PCBs from unqualified waste dumps in the middle of residential areas be considered. A major part of the responsibility for the failure to properly deal with the environmental problems caused by PCBs lies with the original producer, Monsanto, who has avoided responsibility for everything except narrowly defined "owned" properties, a doctrine also used by LyondellBasel to avoid responsibility as part of a settlement negotiated with USDOJ. The settlement excused the LyondellBasel subsidiary Millennium Holdings of responsibility in exchange for a token payment after their responsibility had been recognized for over 20 years. The current proposed action may be deemed to be final. If so, the Precautionary Principle demands that only the full removal option be selected.

In light of the above discussion, KRWC requests that NRRB take aggressive action toward complete removal of this blight in our community. Such action is supported by the Integrated Cleanup Initiative.